

(5) Based on the most recent examination of the Federal savings association and any other available information, the Regional Director determines that the overall performance of the Federal savings association is satisfactory;

(6) The proposed trust officer(s) who would be in charge of the trust operations must:

(i) Have been responsible for trust operations or fiduciary matters comparable to those proposed, for a period of at least two years during the previous five years; or

(ii) Have had two years of such experience prior to the last five years and successfully completed, during the previous year, an intensive course on trust operations comparable to those proposed;

(7) The Regional Director determines, based on the information available, that the proposed trust officer(s) is trustworthy and competent (the person's experience, education and other relevant factors may be considered) to be in charge of the proposed trust operations;

(8) The proposed trust department or service corporation has legal counsel available to provide advice with respect to fiduciary matters;

(9) The Regional Director has determined that there is sufficient need for the proposed trust activities in the communities to be served; and

(10) The approval of the appropriate Federal or State authorities has been obtained if the proposed fiduciary services are to be exercised through a state or Federally chartered service corporation.

(d) Approval by the Office or the Regional Director of an application under this section authorizes the applicant to exercise only those trust powers specified in the approval. Unless otherwise provided by the approval, fiduciary services based on those trust powers may be offered only in those offices listed in the application.

[54 FR 49518, Nov. 30, 1989, as amended at 55 FR 13512, Apr. 11, 1990; 57 FR 14342, Apr. 20, 1992; 60 FR 66717, Dec. 26, 1995]

§ 550.3 Consolidation or merger of two or more Federal savings associations.

Where two or more Federal savings associations consolidate or merge, and any one of such Federal savings associations has, prior to such consolidation or merger, received a permit from the Office to exercise trust powers which permit is in force at the time of the consolidation or merger, the rights existing under such permit pass to the resulting Federal savings association, and the resulting Federal savings association may exercise such trust powers in the same manner and to the same extent as the Federal savings association to which such permit was originally issued; and no new application to continue to exercise such powers is necessary. However, when the name or charter number of the resulting Federal savings association differs from that of the Federal savings association to which the right to exercise trust powers was originally granted, the Office Regional Director will issue a certificate to that Federal savings association showing its right to exercise the trust powers theretofore granted to any of the Federal savings associations participating in the consolidation or merger.

[54 FR 49518, Nov. 30, 1989, as amended at 60 FR 66717, Dec. 26, 1995]

§ 550.4 Deposit of securities with State authorities.

Whenever local law requires a corporation acting as a fiduciary to deposit securities with State authorities for the protection of private or court trusts, Federal savings associations in that state authorized to exercise trust powers shall, before undertaking to act in any fiduciary capacity, make a similar deposit with the state authorities. If the state authorities refuse to accept such a deposit, the securities shall be deposited with the Federal Home Loan Bank of which the Federal savings association is a member, and such securities shall be held for the protection of private or court trusts with like effect as though the securities had been deposited with the State authorities.

§ 550.5 Administration of trust powers.

(a)(1) *Responsibility of the board of directors.* The board of directors is responsible for the proper exercise of fiduciary powers by the Federal savings association. All matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the Federal savings association in the exercise of its fiduciary powers, are the responsibility of the board. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the Federal savings association's trust powers as it may consider proper to assign to such director(s), officer(s), employee(s), or committee(s) as it may designate.

(2) *Administration of accounts.* No fiduciary account shall be accepted without the prior approval of the board, or of the director(s), officer(s), or committee(s) to whom the board may have assigned the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the Federal savings association has investment responsibilities, a prompt review of the assets shall be made. The board shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in or held for each fiduciary account for which the Federal savings association has investment responsibilities are reviewed to determine the advisability of retaining or disposing of such assets. The board of directors should act to ensure that all investments have been made in accordance with the terms and purposes of the governing instrument.

(b) *Use of other Federal savings association personnel.* The trust department may utilize personnel and facilities of other departments of the Federal savings association, and other departments of the Federal savings association may utilize personnel and facilities of the trust department only to the extent not prohibited by law.

(c) *Compliance with Federal securities laws.* Every Federal savings association exercising trust powers shall adopt written policies and procedures to ensure that the Federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. Such policies and procedures, in particular, shall ensure that the Federal savings association's trust departments shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.

(d) *Legal counsel.* Every Federal savings association exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be readily available to pass upon fiduciary matters and to advise the Federal savings association and its trust department.

(e) *Bonding.* In addition to the minimum bond coverage required by § 563.190 of this chapter, directors, officers, and employees of a Federal savings association engaged in the operation of a trust department shall acquire such additional bond coverage as the office may require.

§ 550.6 Books and accounts.

(a) *General.* Every Federal savings association exercising trust powers shall keep its fiduciary records separate and distinct from other records of the Federal savings association. All fiduciary records shall be so kept and retained for such time as to enable the Federal savings association to furnish such information or reports with respect thereto as may be required by the office. The fiduciary records shall contain full information relative to each account.

(b) *Record of pending litigation.* Every Federal savings association shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of trust powers.

§ 550.7 Audit of trust department.

(a) A committee of directors of the Federal savings association who are independent of its management shall make, or cause to be made, a suitable audit of the association's trust department annually. The audit shall, at a